



Entered on Docket
October 12, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

Annette W. Jarvis, Utah Bar No. 1649
Steven C. Strong, Utah Bar No. 6340
RAY QUINNEY & NEBEKER P.C.
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, Utah 84145-0385
Telephone: (801) 532-1500
Facsimile: (801) 532-7543
Email: ajarvis@rqn.com

Lenard E. Schwartz, Nevada Bar No. 0399
Jeanette E. McPherson, Nevada Bar No. 5423
SCHWARTZER & MCPHERSON LAW FIRM
2850 South Jones Boulevard, Suite 1
Las Vegas, Nevada 89146-5308
Telephone: (702) 228-7590
Facsimile: (702) 892-0122
E-Mail: bkfilings@s-mlaw.com

Attorneys for USA Capital First Trust Deed Fund, LLC

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

Case No. BK-S-06-10725 LBR
Case No. BK-S-06-10726 LBR
Case No. BK-S-06-10727 LBR
Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

Chapter 11

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

Jointly Administered Under
Case No. BK-S-06-10725 LBR

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

**ORDER GRANTING MOTION TO
CLOSE CASE AND REQUEST FOR
FINAL DECREE
(Affects USA Capital First Trust Deed
Fund, LLC)**

In re:
USA SECURITIES, LLC,
Debtor.

Affects:

- ☐ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☒ USA Capital First Trust Deed Fund, LLC

Date of Hearing: September 28, 2007
Time of Hearing: 1:30 p.m.

SCHWARTZER & MCPHERSON LAW FIRM
2850 South Jones Boulevard, Suite 1
Las Vegas, Nevada 89146-5308
Tel: (702) 228-7590 · Fax: (702) 892-0122

1 The Motion to Close Case and Request for Final Decree (the “Motion”) (Docket No. 4242)
 2 filed by USA Capital First Trust Deed Fund, LLC (“FTDF”), the original hearing on which having
 3 been continued from August 23, 2007, came before this Court on proper notice at the hearing held
 4 September 28, 2007, at 1:30 p.m. Lenard E. Schwartzer of Schwartzer & McPherson Law Firm
 5 and Annette W. Jarvis of Ray Quinney & Nebeker P.C., appearing telephonically, appeared on
 6 behalf of FTDF, Candace C. Carolyn of Shea & Carolyn, Ltd. and Eve Karasik of Stutman
 7 Treister & Glatt, P.C., appearing telephonically, appeared on behalf of the Official Committee of
 8 Equity Security Holders of USA Capital First Trust Deed Fund, LLC (the “FTDF Committee”),
 9 and other appearances were noted on the record.

10 The FTDF Committee filed a response to the Motion on August 14, 2007 (the “FTDF
 11 Committee Response”) (Docket No. 4493). No other responses to the Motion were filed. FTDF
 12 filed a reply to the FTDF Committee Response on August 21, 2007 (the “Reply”) (Docket No.
 13 4611).

14 THE COURT, therefore, having considered the Motion, the FTDF Committee Response,
 15 the Reply, and has also considered the Final Report filed by FTDF (Docket No. 4178), the
 16 Supplement to the Final Report (Docket No. 4887), and the Declaration of Susan M. Smith filed in
 17 support of the Motion and the Final Report (Docket No. 4888), and having determined that good
 18 and sufficient cause exists for granting the Motion subject to the stipulation set forth below and
 19 approved by FTDF and the FTDF Committee, HEREBY ORDERS THAT:

20 1. The estate of FTDF is fully administered within the meaning of 11 U.S.C. § 350(a)
 21 and Rule 3022 of the Federal Rules of Bankruptcy Procedure.

22 2. The Motion is granted, subject to the stipulation below agreed to and acknowledged
 23 by FTDF and the FTDF Committee.

24 3. FTDF and the FTDF Committee hereby stipulate as follows:

25 FTDF and the FTDF Committee hereby agree and stipulate that, in the event that
 26 the parties are unable to resolve tax disputes involving FTDF, both FTDF and the
 27 FTDF Committee will stipulate to reopen the FTDF bankruptcy case (bankruptcy
 28 case no. 06-10728) in order to resolve such tax disputes, and that FTDF will pay
 any fees associated with such reopening, and that FTDF will withhold the Final
 Distribution to FTDF Members until such tax disputes are resolved.

4. The FTDF bankruptcy case (bankruptcy case no. 06-10728) is hereby closed effective September 28, 2007.

5. The Court shall enter a Final Decree in bankruptcy case no. 06-10728 hereafter.

6. FTDF shall remain obligated to pay all fees of the United States Trustee through September 28, 2007.

7. This Order shall have no effect on the status of the bankruptcy cases filed by USA Commercial Mortgage Company, USA Capital Realty Advisors, LLC, USA Capital Diversified Trust Deed Fund, LLC, or USA Securities, LLC.

Submitted, and Stipulation agreed to, by:
SCHWARTZER & MCPHERSON LAW FIRM
and RAY QUINNEY & NEBEKER P.C.

By: /s/ Lenard E. Schwartz
LENARD E. SCHWARTZER, ESQ.
JEANETTE E. MCPHERSON, ESQ.
ANNETTE W. JARVIS, ESQ.
STEVEN C. STRONG, ESQ.
Attorneys for USA Capital First Trust Deed Fund, LLC

Approved, and Stipulation agreed to, by:
STUTMAN TREISTER & GLATT, P.C. and
SHEA & CARLYON, LTD.

By: /s/ Eve Karasik
EVE KARASIK, ESQ.
FRANK A. MEROLA, ESQ.
CANDACE C. CARLYON, ESQ.
*Counsel for the Official Committee of
Equity Security Holders of USA Capital
First Trust Deed Fund LLC*

Approved by:
OFFICE OF THE U.S. TRUSTEE

By: _____
AUGUST B. LANDIS, ESQ.
SCOTT A. FARROW, ESQ.

SCHWARTZER & MCPHERSON LAW FIRM
2850 South Jones Boulevard, Suite 1
Las Vegas, Nevada 89146-5308
Tel: (702) 228-7590 · Fax: (702) 892-0122

1 4. The FTDF bankruptcy case (bankruptcy case no. 06-10728) is hereby closed
2 effective September 28, 2007.

3 5. The Court shall enter a Final Decree in bankruptcy case no. 06-10728 hereafter.

4 6. FTDF shall remain obligated to pay all fees of the United States Trustee through
5 September 28, 2007.

6 7. This Order shall have no effect on the status of the bankruptcy cases filed by USA
7 Commercial Mortgage Company, USA Capital Realty Advisors, LLC, USA Capital Diversified
8 Trust Deed Fund, LLC, or USA Securities, LLC.

9 #####

10 Submitted, and Stipulation agreed to, by:
11 SCHWARTZER & MCPHERSON LAW FIRM
12 and RAY QUINNEY & NEBEKER P.C.

13 By: _____
14 LENARD E. SCHWARTZER, ESQ.
15 JEANETTE E. MCPHERSON, ESQ.
16 ANNETTE W. JARVIS, ESQ.
17 STEVEN C. STRONG, ESQ.
18 *Attorneys for USA Capital First Trust Deed Fund, LLC*

19 Approved, and Stipulation agreed to, by:
20 STUTMAN TREISTER & GLATT, P.C. and
21 SHEA & CARLYON, LTD.

22 By: _____
23 EVE KARASIK, ESQ.
24 FRANK A. MEROLA, ESQ.
25 CANDACE C. CARLYON, ESQ.
26 *Counsel for the Official Committee of*
27 *Equity Security Holders of USA Capital*
28 *First Trust Deed Fund LLC*

Approved by:
OFFICE OF THE U.S. TRUSTEE

By: 
AUGUST B. LANDIS, ESQ.
SCOTT A. FARROW, ESQ.

SCHWARTZER & MCPHERSON LAW FIRM

2850 South Jones Boulevard, Suite 1

Las Vegas, Nevada 89146-5358

Tel: (702) 228-7590 • Fax: (702) 892-0122

1 In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

2 ____ The court has waived the requirement of approval under LR 9021.

3 ____ No parties appeared or filed written objections, and there is no trustee appointed in the case.

4 X I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any
unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each
5 has approved or disapproved the order, or failed to respond, as indicated below [list each party and
whether the party has approved, disapproved, or failed to respond to the document]:
6

7 *Eve Karasik, Esq. – approved*

8 *Augie Landis, Esq. – approved*

9 ###
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28